IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6905 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANK OF BARODA ARMED STAFF CO - OPERATIVE CREDIT SOC. LTD - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR BS PATEL for Petitioner(s) : 1,MRS RANJAN B PATEL for Petitioner(s) : 1,
MR MR MENGDE, AGP for Respondent(s) : 1 - 3.
MR SK JHAVERI for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 09/02/2007

ORAL JUDGMENT

This petition has been filed by the Bank of Baroda Award Staff Cooperative Credit Society Ltd.

(hereinafter to be referred to as “the petitioner society”) challenging the orders passed by the State Authorities turning down the request of the petitioner society to amend one of its bye-laws.

2. Short facts leading to the petition are as follows:

3. The petitioner society is a credit cooperative society. The members of the petitioner society are employees of the Bank of Baroda stationed at Bhaga Talav Branch, Surat City. The field of operation of the petitioner society is only qua such employees.

After the petitioner society came into existence, respondent No.4, Bank Baroda Staff Co-operative Credit Society Ltd. (hereinafter to be referred to as “respondent No.4 society”) came into existence and was duly registered under the provisions of the Gujarat Cooperative Societies Act with no objection from the petitioner society.

Old bye-law No.13(6) of the petitioner society, inter alia, provided that in case of shifting of any employee from Bhaga Talav branch by way of transfer or on promotion, his membership in the petitioner society shall automatically stand cancelled.

On account of this bye-law, the petitioner

experienced certain difficulties in its membership, particularly after the registration of respondent No.4 society. It is the case of the petitioner that with each successive transfer of employee from Bhaga Talav branch to any other part of Surat City or outside, the petitioner society would lose membership of that member. Whereas since respondent No.4 came into existence, any new incoming member upon transfer from outside Bhaga Talav branch could not be enrolled as member of the petitioner society since in large number of cases, incoming member was already a member of respondent No.4 society. It may be noted that respondent No.4 has its operations through the city of Surat including Bhaga Talav branch of the Bank.

With this difficulty in mind, the petitioner society resolved to amend its bye-law vide resolution dated 25.11.95. Primarily, the change sought for was that upon transfer of an employee from Bhaga Talav branch, it would be open for the employee to choose to continue the membership of the petitioner society. The petitioner, thereafter, applied to the District Registrar seeking permission to amend the bye-law. The District Registrar, however, rejected the application on 24.10.96. The petitioner society then preferred appeal to the Additional Registrar which appeal came to be rejected on 31.8.97. Further revision application to the State Government also failed and the revision was rejected on 24.3.99. Request of the

petitioner to review the order also came to be turned down by the order dated 17.4.99. The petitioner is, therefore, before this Court in the present petition challenging the orders passed by the said authorities.

4. Having heard the learned advocate Shri B.S.Patel for the petitioner society, learned AGP Shri Mengde for the State Authorities and learned Senior advocate Shri S.K.Jhaveri for respondent No.4 society, I find that the difficulty faced by the petitioner society was genuine. As noted earlier, the field of operation of the petitioner society was confined to the employees of Bank of Baroda stationed at Bhaga Talav branch. Earlier, on transfer or shifting of such an employee on promotion outside Bhaga Talav branch, the incoming member would ordinarily be permitted to join the petitioner society as a member. However, with existence of respondent No.4 society it was possible that the substituting incoming member may also be a member of respondent No.4 society. Thus with passage of time, membership of the petitioner society would suffer a serious shrinkage. Though the State Authorities recommended merger of the two societies, the formula did not work out. Be that as it may, it is apparent that if the existing bye-law 13(6) of the petitioner society is not permitted to be amended, the membership of the petitioner society may dwindle to such an extent that the petitioner society may find it difficult to exist.

5. In view of this, I find that the Authorities erred in not permitting the petitioner to amend bye-law 13(6) as prayed for. I see no legal impediment in granting such an amendment. The purpose of amending bye-law was clear and had no likelihood of causing any adverse effect on any other existing society. The proposed bye-law also did not run counter to any of the statutory provisions contained in the Gujarat Cooperative Societies Act or the rules made thereunder.

6. Learned advocate Shri BS Patel for the petitioner clarified that the only change that the petitioner society seeks in existing bye-law 13(6) is that instead of automatic cancellation of membership of a transferred employee from Bhaga Talav branch, such a transferred employee should have a choice to retain his membership with the petitioner society. He submitted that the remaining portion of bye-law 13(6) pertaining to the arrangement of award staff is neither sought to be amended nor applied for amendment. With this clarification, I accept the request of the petitioner for permission to amend bye-law No.13(6) by providing that upon promotion or transfer of an employee from the field of operation of society at the option of such member, his membership of the society can be continued.

7. In the result, it is directed that respondent Nos.1 to 3 shall grant approval to the

petitioner society for amendment of its bye-law No.13(6) as proposed with the clarification made hereinabove, With these directions, the petition is allowed to the above extent. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)